

UNITED STATES DISTRICT COURT
for
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

U.S.A. vs. Ivan Lelane Smith

Docket No. 5:08-CR-184-1D

Petition for Action on Supervised Release

COMES NOW Van R. Freeman, Jr., probation officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Ivan Lelane Smith, who, upon an earlier plea of guilty to 21 U.S.C. § 841(a)(1) and (b)(1)(B), Distribution of Cocaine Base (Felony) and 18 U.S.C. § 922(g)(1) and 924 (a)(2), Felon in Possession of a Firearm (Felony), was sentenced by the Honorable Robert G. Doumar, U.S. District Judge, sitting in the Eastern District of Virginia, on February 13, 2006, to the custody of the Bureau of Prisons for a term of 72 months. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for 60 months under the standard conditions adopted by the court and the following additional conditions:

1. The defendant shall refrain from any unlawful use of a controlled substance and submit to one drug test within 15 days of release on supervised release and at least two periodic drug tests thereafter, as directed by the probation officer.
2. The defendant shall participate in a program approved by the United States Probation Office for substance abuse, which program may include residential treatment and testing to determine whether the defendant has reverted to the use of drugs or alcohol, with partial cost to be paid by the defendant, all as directed by the probation officer.
3. The defendant shall pay for the support of his child in the amount ordered by any social service agency or court of competent jurisdiction. In the absence of such order, payments are to be made on a schedule to be determined by the court at the inception of supervision, based on the defendant's financial circumstances.

Ivan Lelane Smith was released from custody on December 28, 2007, at which time the term of supervised release commenced. On February 21, 2008, the defendant tested positive for the use of cocaine. This use was reported to the Eastern District of Virginia and jurisdiction was requested. Jurisdiction was transferred to the Eastern District of North Carolina on June 12, 2008.

On August 11, 2008, based on the defendant's use of cocaine, the court modified his supervision to include the following condition:

1. The defendant shall be confined in the custody of the Bureau of Prisons for a period of 6 days as directed by the probation officer and shall abide by all rules and regulations of the designated facility.

On March 9, 2009, based on the defendant's use of marijuana, the court modified his supervision to include the following condition:

1. The defendant shall be confined in the custody of the Bureau of Prisons for an additional period of 6 days as directed by the probation officer and shall abide by all rules and regulations of the designated facility.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:

On April 29, 2010, the defendant tested positive for the use of marijuana. Appointments were set for May 17 and May 24, 2010, to confront the defendant about his drug use. He failed to report for those appointments. When he did report on June 17, 2010, he admitted to the use on April 29 and an additional use of marijuana on June 11, 2010. He stated he missed his appointments because he was ashamed of his relapse and was very remorseful. Smith had completed his treatment program at the beginning of March 2010 and had not used for over a year. Therefore, we recommend he be placed on home detention for a period of 60 days. He has been referred back to the treatment program and also participates in our surprise urinalysis program at the highest level of surveillance. The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

PRAYING THAT THE COURT WILL ORDER that supervised release be modified as follows:

1. The defendant shall abide by all conditions and terms of the home detention program for a period not to exceed 60 consecutive days. The defendant shall be restricted to his residence at all times except for pre-approved and scheduled absences for employment, education, religious activities, treatment, attorney visits, court appearances, court obligations or other activities as approved by the probation officer. The defendant shall wear an electronic monitoring device and follow electronic monitoring procedures specified by the probation officer.

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Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,


I declare under penalty of perjury that the foregoing is true and correct.

/s/ Robert L. Thornton
Robert L. Thornton
Supervising U.S. Probation Officer

/s/ Van R. Freeman, Jr.
Van R. Freeman, Jr.
Senior U.S. Probation Officer
310 Dick Street
Fayetteville, NC 28301-5730
Phone: (910) 483-8613
Executed On: June 21, 2010

ORDER OF COURT

Considered and ordered this 22 day of June, 2010, and ordered filed and made a part of the records in the above case.


James C. Dever, III
U.S. District Judge